



KREINDLER & KREINDLER LLP | 485 Lexington Avenue | New York, NY 10017-2629

office: 212.687.8181 | fax: 212.972.9432 | www.kreindler.com

March 21, 2023

VIA ECF

The Honorable Sarah Netburn
United States Magistrate Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)
Ashton et al. v. al Qaeda Islamic Army, et al., No. 02-cv-06977
Burlingame v. Bin Laden, et al., No. 02-cv-07230
Bauer et al. v. al Qaeda Islamic Army, et al., No. 02-cv-07236
Lefft et al. v. Kingdom of Saudi Arabia, No. 18-cv-03353 (“*Ashton II*”)

Dear Judge Netburn:

I write concerning this Court’s Report and Recommendation regarding proposed judgments against the Taliban for certain victims who died on September 11, 2001 in the terrorist attacks and their immediate family members (9/11 Families).

A number of 9/11 Families who are part of the *Ashton v. al Qaeda Islamic Army, et al.*, 02-cv-6977, complaint moved this Court for final damages judgments, some of which this Court recently recommended be granted. *See* ECF 8929.¹

That Report and Recommendation referred to an “*Ashton II* motion.” ECF 8929 at 2. That motion, however, was filed on behalf of clients who are part of a complaint titled *Lefft et al. v. Kingdom of Saudi Arabia*, docketed at 18-cv-3353 (S.D.N.Y.) (GBD) (SN), and are not part of the *Ashton* consolidated pleadings against the Taliban or others.² The *Lefft* motion for judgments against the Taliban was labeled as related to *Ashton*, but without consultation with any *Ashton* counsel, and then was filed on the individual *Lefft* civil docket. *See* 18-cv-3353 (S.D.N.Y.) (GBD) (SN), ECF 75 *et al.*

The *Lefft* motion has no connection to the *Ashton* cases. A review of the *Lefft* docket suggests that the Taliban is not a defendant to that suit. Because the *Lefft* motion was filed only on the individual civil docket, the first that any *Ashton* counsel learned of the existence of what

¹ Unless noted otherwise, docket references are to the MDL at 03-md-1570.

² A review of the *Lefft* filings suggest that those plaintiffs have named only Saudi Arabian parties as defendants and have joined the Consolidated Amended Complaint, not the *Ashton* complaint, via the short form complaint process (though then sought to add plaintiffs via Notice of Amendment and selected the *Ashton* complaint as the relevant underlying pleading). *See* 18-cv-3353 (S.D.N.Y.) (GBD) (SN), ECF 8, 39, 45.

March 21, 2023

Page 2

was characterized as the “*Ashton II*” motion for damages judgments against the Taliban was in this Court’s Report and Recommendation at ECF 8929.

Additionally, it appears that the *Lefft* moving papers mirrored *Ashton* filings regarding claims against the Taliban for the wrongful deaths of those killed or injured on September 11, 2001 in the terrorist attacks and the solatium claims for their immediate family members. On March 17, 2023, I spoke with counsel for the *Lefft* plaintiffs, and it is my understanding that the plaintiffs to the *Lefft* motion are individuals who suffered latent injuries following the September 11, 2001 terrorist attacks, some of whom subsequently died, and their immediate family members. Thus, the allegations that were in the *Ashton* filings may be materially different than what the *Lefft* plaintiffs would need to assert in support of their motion for judgments.

We advise the Court of this information and respectfully request that the reference to the “*Ashton II*” motion be corrected to the “*Lefft*” motion, given that the *Lefft* plaintiffs are not and have never been part of the *Ashton* action against the Taliban or other defendants.

Respectfully,

KREINDLER & KREINDLER LLP

By: /s/ Megan W. Benett
Megan W. Benett, Esq.
Attorneys for Ashton Plaintiffs